

University of Groningen

## Practical Applications of the Flexibilities of the Agreement on Trade-Related Aspects of Intellectual Property Rights

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*Document Version*

Publisher's PDF, also known as Version of record

*Publication date:*

2018

[Link to publication in University of Groningen/UMCG research database](#)

*Citation for published version (APA):*

't Hoen, E. (2018). *Practical Applications of the Flexibilities of the Agreement on Trade-Related Aspects of Intellectual Property Rights: Lessons beyond HIV for access to new essential medicines*. [Thesis fully internal (DIV), University of Groningen]. University of Groningen.

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## Propositions

of doctoral dissertation, University of Groningen, 2018, by  
Ellen F.M. 't Hoen: *Practical Applications of the Flexibilities of the Agreement on Trade-Related Aspects of Intellectual Property Rights*

1. The common belief that flexibilities contained in the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) are ineffective, is unfounded. (this thesis)
2. The World Health Organization (WHO) Prequalification of Medicines Programme was an essential prerequisite for the widespread use of WTO TRIPS flexibilities in the global scale-up treatment of HIV/AIDS. (this thesis)
3. Refusal to license relevant patents to the Medicine Patent Pool justifies the issue of a compulsory licence. (this thesis)
4. The patent system should progressively be replaced by mechanisms to fund pharmaceutical research and development based on the principle of 'delinkage'. (this thesis)
5. Failing to use TRIPS flexibilities when necessary to provide access to effective new medicines constitutes a violation of international human rights law. (this thesis)
6. The lack of universal access to essential medicines is not based on insufficient global spending on medicines but on lack of equity. (this thesis)
7. Data exclusivity creates stronger monopolies than patents. (this thesis)
8. Universal access to health care cannot be achieved without essential medicines policies.<sup>1</sup>
9. Countries should not follow the WHO Model List of Essential Medicines without a thorough assessment of their own health needs.
10. The statement that compulsory licensing requires a case of national emergency is a deliberate misinterpretation of international trade law.<sup>2 3</sup>
11. The pharmaceutical patent system should not be further globalised as long as it is unproven that its benefits outweigh the its costs.
12. The free market is a good servant but a bad master. (Sir John E. Sulston, Nobel Prize in Physiology or Medicine 2002)
13. The photo gallery of the predominantly male medical faculty of the University Medical Center Groningen offends the legacy of Aletta Jacobs.

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<sup>1</sup> Wirtz VJ, Hogerzeil HV, Gray AL, et al. Essential medicines for universal health coverage. *The Lancet*. 2017 Jan 28;389 (10067):403-76. Available from: <http://www.thelancet.com/commissions/essential-medicines> (Accessed 12 January 2018)

<sup>2</sup> Taylor, J., Compulsory licensing: *A misused and abused international trade law*. The Catalyst, Phrma. May 16, 2017. Available from: <http://catalyst.phrma.org/compulsory-licensing-a-misused-and-abused-international-trade-law> (Accessed 8 January 2018)

<sup>3</sup> 't Hoen E., The most common misunderstanding about compulsory licensing, *Medicines Law & Policy Blog*, 25 May 2017. <https://medicineslawandpolicy.org/2017/05/the-most-common-misunderstanding-about-compulsory-licensing/> (Accessed 12 January 2018)